UNITED
NATIONS

CCPR

International Covenant on Civil and Political Rights

Distr.
GENERAL

CCPR/CO/69/KGZ
24 July 2000

Original: ENGLISH

Human Rights Committee
Sixty-ninth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

The Kyrgyz Republic

1. The Committee considered the initial report of the Kyrgyz Republic (CCPR/C/113/Add.1) at its 1841st, 1842nd and 1843rd meetings (CCPR/C/SR.1741-1743), held on 11 and 12 July 2000, and adopted the following concluding observations at its 1754th and 1755th meetings (CCPR/C/SR.1754-1755), held on 19 and 20 July 2000.

A. Introduction

2. The Committee has examined the detailed and comprehensive initial report of the Kyrgyz Republic, covering events since the country's independence. It appreciates the frankness with which the report and the delegation acknowledged the problems and shortcomings still encountered in the implementation of the human rights contained in the Covenant and the State party's willingness to provide further information and statistics in writing. It regrets the delay in the submission and consideration of the initial report.

B. Positive aspects

3. The Committee commends the State party, which still is in a difficult period of transition, for undertaking the process of bringing its legislation into harmony with its international obligations. It notes the status conferred on the Covenant in the domestic legal order and appreciates that its provisions are directly applicable. It notes the ratification of a number of

human rights treaties and the enactment of important legislation, including a new code of criminal procedure. It welcomes the efforts recently undertaken to sensitize the population concerning human rights standards, and the growing role played by civil society in the Kyrgyz Republic. It commends the willingness of the delegation to recognize the positive contributions of non-governmental organizations and election observers, including international observers.

4. The Committee notes the establishment of a Commission on Human Rights as an advisory body to the President of the Republic, as well as of the Parliamentary Committee on Human Rights. It further notes the steps taken towards the establishment of the post of an independent Commissioner of Human Rights.

5. The Committee welcomes the information provided by the delegation that individuals have, in principle, the right to petition the Constitutional Court in cases of alleged breach of their rights protected by the Constitution, as well as by the Covenant, but notes that this remedy has not been used so far.

C. Principal subjects of concern and recommendations

6. The Committee notes that the general public in the Kyrgyz Republic, as well as public officials, remain insufficiently aware of the Covenant and its Optional Protocol and the accompanying mechanisms.

Measures should be taken to enhance awareness of the Covenant, and its Optional Protocol through a programme of dissemination of human rights texts and the systematic training of all persons involved in the administration of justice, in particular judges, lawyers, prosecutors and prison personnel.

7. The Committee is gravely concerned about instances of torture, inhuman treatment and abuse of power by law enforcement officials.

The State party should amend the Criminal Code to ensure that acts of torture are indictable offences, and that all allegations of torture are properly investigated and the persons responsible prosecuted (Covenant, article 7). Complaints about torture and other abuses by officials should be investigated by independent bodies. Provision should be made for medical examination of detained persons, particularly of persons held in pre-trial detention, in order to ensure that no physical abuse of detainees occurs. The State party should institute an independent system of monitoring all places of detention with the purpose of preventing torture and other abuses of power by law enforcement officials.

8. While noting the current moratorium on carrying out death sentences, the Committee is concerned about the current situation with regard to capital punishment and about the number of persons currently detained under sentence of death.

The Committee commends the State party for having imposed a moratorium on the execution of capital punishment and urges the State party to extend it indefinitely and to commute the sentences of those persons currently on death row. The Committee commends the State party for abolishing the death penalty for women, but points out that retention of the death penalty for men alone is incompatible with its obligations under articles 2, 3 and 26 of the Covenant. The State party should ensure equality by abolishing the death penalty for all persons.

9. The Committee is concerned about the number of persons held in pre-trial detention, some of them incommunicado, that all the grounds for authorizing pre-trial detention are not exhaustively listed in the present laws, and about lack of judicial control over the prolongation of detention.

The State party should ensure that anyone arrested or detained on a criminal charge is brought promptly before a judge (Covenant, article 9, paragraph 3), that all other aspects of its law and practice are harmonized with the requirements of article 9 of the Covenant and that detained persons have access to counsel and contact with their families. In the next report precise statistics should be provided on the number of persons held in pre-trial detention and the length of such detention.

10. The Committee is also concerned about the detention of persons on mental health grounds and the apparent lack of possibility of challenging such detention.

Persons detained on mental health grounds should have prompt access to judicial review.

11. The Committee remains concerned about inhuman prison conditions, characterized by overcrowding, inadequate food and medical care, and at the fact that convicted persons are frequently not kept segregated from accused persons and that juvenile offenders are frequently detained in the same detention centres as adults (art. 10).

The State party must take measures to improve prison conditions and to ensure that juveniles are detained in segregated centres. It must ensure that all persons deprived of their liberty are treated with humanity and respect for their inherent dignity. Specifically, the State party must ensure that all detainees are afforded adequate food and medical care.

12. The Committee is concerned that the Law on Public Emergency in the Kyrgyz Republic does not specifically restrict the power of derogation from specific Covenant provisions, as stipulated in article 4 of the Covenant.

The State party should take measures to bring its Law on Public Emergency into compliance with article 4 of the Covenant.

13. The Committee notes that, although article 15 of the Constitution provides for the equality of men and women, the condition of women has not ceased deteriorating in the private and public sectors. The number of women in Parliament, in public service and in management posts remains very low, a situation which constitutes a serious contravention of the fundamental

principle of equality and which has a negative impact on the enjoyment of all other rights and on the harmonious development of society. Moreover, the problems of poverty and unemployment have contributed to high rates of maternal and infant mortality.

The Committee refers to articles 3 and 26 of the Covenant and to its General Comment No. 28 on gender equality, and urges the State party to take all necessary measures to sensitize the population, so as to improve the condition of women by eradicating all traditional and stereotypical attitudes that deny women equality in education, the workplace, public life and access to public service. In particular, measures against discrimination should be enforced and positive measures taken to further the education of women at all levels.

14. The Committee expresses grave concern over the occurrence of violence against women and the increasing phenomenon of trafficking in women, which is aggravated by the economic hardship facing women in Kyrgyzstan (arts. 3, 7, 8).

The State party should ensure that existing laws relating to violence against women and trafficking are vigorously enforced; adopt effective measures to protect women; provide victims of violence and abuse with a measure of compensation and rehabilitation; and combat trafficking in all appropriate ways, including the prosecution and punishment of those responsible. Specific legislation on the prohibition and punishment of domestic violence and trafficking in women should be enacted.

15. The Committee is concerned about the lack of full independence of the judiciary (Covenant, article 14.1). In particular, the Committee notes that the applicable attestation procedure for judges, the requirement of re-evaluation every seven years, the low level of salaries and the uncertain tenure of judges may encourage corruption and bribery. The Committee is also concerned that trials may be held in camera in circumstances not permitted under article 14.1.

16. The Committee notes with approval the time limits ensuring expeditious commencement of criminal trials, but is concerned at the court's power under the Code of Criminal Procedure not to reach decision at the end of a trial, but rather to remit the case to the prosecutor for further inquiries.

This procedure should be abolished.

17. The continued existence of the propiska system violates the right to freedom of movement and choice of residence under article 12 of the Covenant.

The State party should abolish the system of authorizations (propiska) and give full effect to the provisions of article 12 of the Covenant.

18. The Committee takes note that conscientious objection to military service is allowed only to members of a registered religious organization whose teachings prohibit the use of arms. The Committee regrets that the State party has not sought to justify why the provision on alternative

service entails a period of service twice as long as that required of military conscripts, and why persons of higher education serve for a considerably lesser period in the military and in alternative service (arts. 18 and 26).

Conscientious objection should be provided for in law, in a manner that is consistent with articles 18 and 26 of the Covenant, bearing in mind that article 18 also protects freedom of conscience of non-believers. The State party should fix the periods of military service and alternative service on a non-discriminatory basis.

19. The Committee is concerned about the continued existence of child labour, the problem of mistreatment of children in some educational institutions, cruel punishment and the phenomenon of trafficking in children.

The State party must urgently address these issues so as to ensure the special protection to which children are entitled under article 24 of the Covenant. Specifically, corporal punishment must be prohibited.

20. The Committee is concerned about the intimidation and harassment, in particular by government officials, of journalists and human rights activists, including members of human rights non-governmental organizations, who have been subjected to prosecution, fines and imprisonment. It is especially concerned about the use of libel suits against journalists who criticize the Government. Such harassment is incompatible with the freedom of expression and of the press stipulated in article 19 of the Covenant.

The State party must protect journalists and human rights activists from harassment. It should ensure that journalists can perform their profession without fear of being subjected to prosecution and libel suits for criticizing government policy or government officials. Journalists and human rights activists subjected to imprisonment in contravention of articles 9 and 19 of the Covenant should be released, rehabilitated and given compensation pursuant to articles 9.5 and 14.6 of the Covenant.

21. The Committee expresses its concern about the closing of newspapers on charges of tax evasion and in order to secure the payment of fines. It is also concerned about the functions of the National Communications Agency, which is attached to the Ministry of Justice and has wholly discretionary power to grant or deny licences to radio and television broadcasters. Delay in the granting of licences and the denial of licences have a negative impact on the exercise of freedom of expression and the press guaranteed under article 19 and result in serious limitations in the exercise of political rights prescribed in article 25, in particular with regard to fair elections.

The tasks and competences of the National Communications Agency should be clearly defined by law, and its decisions should be subject to appeal to judicial authority.

22. The Committee is concerned about restrictions on the holding of public meetings and demonstrations, which exceed those permitted under article 21 and about the lack of appeal procedures in the case of denial of permission.

23. The Committee is concerned about the conduct of the parliamentary elections in the Kyrgyz Republic in March 2000 and in particular about the non-participation of political parties which failed to register one year prior to the elections, or the statutes of which did not explicitly declare an intention to stand for elections.

The State party should take the necessary measures to ensure the enjoyment by all its citizens of the rights provided for in article 25 of the Covenant, taking due account of the Committee's General Comment No. 25 on article 25 of the Covenant.

D. Date of examination of second periodic report

Dissemination of information

24. The Committee requests that the State party submit its second periodic report by 31 July 2004. This report should be prepared in compliance with the Committee's new guidelines (CCPR/C/66/GUI/Rev.1), provide gender disaggregated data and up-to-date statistics on the condition of women, and give particular attention to the recommendations made in these concluding observations. The Committee urges the State party to make available to the public the text of the State party's initial report together with the present concluding observations. It further requests that the second periodic report be widely disseminated among the public, including civil society and non-governmental organizations operating in the Kyrgyz Republic.